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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Simplification of the Depreciation Prescription Process	CC Docket 92-296 [FCC 92-537]

REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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OFFICE OF THE SECRETARY

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Pursuant to Sections 1.49, 1.415, and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. Sections 1.49, 1.415, & 1.419 (1992), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits these reply comments on the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") adopted December 10, 1992, and released December 29, 1992, in the above-captioned proceeding.

I. DISCUSSION

A. NARUC's Initial Comments

NARUC's initial comments suggest, inter alia, that, (a) because it assures the most accurate results by continuing to recognize an individual carrier's accumulated depreciation reserve in setting rates, the FCC's proposed Option A is the most acceptable of the four posed by the FCC, (b) use of Option A should be optional, (c) carriers must continue to maintain accurate property records, (d) the other three options are deficient as they largely discard the basic principle of matching expense to capital consumption, ignore basic life and salvage factors and are not sensitive to the depreciation reserve position of individual carriers, (e) the price cap option D, in particular, should not be adopted under any form of earnings regulation because, by leaving the choice of depreciation rates to the carriers, it provides an incentive to manipulate depreciation expense to produce a desired level of earnings, and finally (g) the possibility of changing the accounting treatment for Cost of Removal and Salvage to Current Period Accounting has merit and should be examined in depth to address other questions not present in the NPRM.

B. Other Commentors Positions on Options

Thirty-six other entities filed comments in response to the FCC's NPRM. Of those filing comments, twelve filed comments urging adoption of the price cap Option D opposed by NARUC as the most beneficial FCC proposal.[1] Predictably, this group is entirely comprised of Local Exchange Carriers ("LEC") [and one trade association representing LEC interests]. Basically, almost all of the remaining twenty-four commentors - consisting of two interexchange carriers, one federal agency, a state cable association, a group of state consumer advocate agencies, and

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[1] See, the Comments of (a) Ameritech Operating Companies ("Ameritech") at pages 5-7; (b) Bell Atlantic Telephone Company ("Bell Atlantic") at pages 7-9; (c) BellSouth Telecommunications, Inc. ("BellSouth") at page 19, 21-3; (d) New England Telephone and Telegraph Company and New York Telephone ("NYNEX") at page 8; (e) Pacific Bell and Nevada Bell ("the Pacific Companies") at pages 9-10; (f) Southwestern Bell Telephone Company ("SWB") at page 10-6; (g) U S West Communications, Inc. ("US West") at page 4; (h) Cincinnati Bell Telephone ("CBT") at page 3; (i) GTE Service Corporation ("GTE") at page 7-8; (j) Southern New England Telephone Company ("SNET") at page 15; (k) United States Telephone Association ("USTA") at page 8-12; and (l) United Telephone - Southeast, Inc. ("UTS") at page 6-7.

several state public utility commissions - either argued that no simplification was warranted at this time and/or none of the FCC's proposed options are acceptable[2] or agreed with NARUC that Option A was the "most acceptable" of the options posed by the FCC.[3] Twenty-one of the twenty-four non-LEC commentors specifically addressed Option D and agreed it was not an acceptable option at the current time.[4]

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2 See, generally, the Comments of (a) Colorado Public Utilities Commission ("CoPUC") at pages 6-9;(b) State Consumer Advocates ("States") at pages 8-11; (c) Idaho Public Service Commission ("Idaho") at pages 1-2; (d) General Services Administration ("GSA") at pages 3-7, 11; (e) California Cable Television Association ("CCTA") at pages 7-8; (f) New York State Department of Public Service ("NYDPS") at pages 5-6; (g) Public Utility Commission of Texas ("Texas PUC") at pages 1-3; and (h) Utah Division of Public Utilities ("Utah").

3 Several commentors suggested no changes are needed at this time, but noted, if the FCC decides to proceed, that Option A is the most suitable. See, e.g., the Comments of (a) CoPUC at pages 12-9; (b) States at page 12-5;(c) Idaho at page 3; (d) Indiana Utility Regulatory Commission ("Indiana") at pages 3-5; (e) Michigan Public Service Commission ("MiPSC") at pages 4-6; (f) Missouri Public Service Commission ("MoPSC") at pages 2-3; (g) Nebraska Public Service Commission ("Nebraska") at page 2; (h) the People of the State of California and the California Public Service Commission ("CPUC") at pages 2-4; (i) Public Service Commission of Wisconsin ("Wisconsin") at page 2-3; South Dakota Public Service Commission ("SD") at page 1; Utah at page 2-3; Virginia State Corporation Commission Staff ("Virginia") at page 2; and Washington Utilities and Transportation Commission ("WUTC") at page 1 (note the WUTC also did not oppose use of Option B).

4 See, e.g., Comments of (a) American Telephone and Telegraph Company ("AT&T") at pages 8-9, suggesting that Option D not be adopted for LECs; (b) MCI Telecommunications Corporation ("MCI") at page 9; (c) CCTA at pages 22-3; (d) Deloitte & Touche at page 4 noting that although this option would provide the most simplification, that option A treats carriers more appropriately and should be selected; (e) States at pages 21-7; (f) Idaho at pages 5-6; (g) Indiana at page 7; (h) MiPUC at page 7; (i) MoPUC at 5; (j) NARUC at pages 11-3; (k) NYDPS at page 12; (l) NDPSC at page 4; (m) North Dakota Public Service Commission at page 4; (n) CPUC at pages 8-10; (o) Wisconsin at pages 8-10; (p) SD at page 2; (q) Utah at page 4; (r) Virginia at pages 2-3; and (s) WUTC at page 2.

C. Alternatives Presented

Thus, a review of the comments suggests that, insofar as the proposed four options are concerned, the FCC has three potential alternatives: (a) terminate the docket without adopting any of the options presented, (b) adopt Option A as an elective procedure, or (3) adopt Option D as an elective procedure. NARUC respectfully suggests that only two of these options have the necessary record support - no simplification or Option A.[5]

D. LEC Arguments

The LEC arguments supporting implementation of Option D all followed the same general outline, suggesting that (1) option D allows LECs to dispense with the costly and detailed study and report process, (2) LECs have little incentive or opportunity to adjust depreciation to avoid sharing under price caps, (3) others will have an opportunity to comment, and finally that (4) States will still be provided with notice of the proposed rates as required by Communication Act.[6]

E. NARUC Response

In rebuttal to these arguments, NARUC notes that an examination of the record suggests that -

(1) Potential cost savings resulting from any of the

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[5] See Footnotes 2 and 3, supra. Even Bell Atlantic, in its comments at pages 11-12, agrees that if Option D is not allowed, Option A is preferable.

[6] See, e.g., Comments of (a) Bell Atlantic at 7-10; (b) Ameritech at pages 5-7; (c) Pacific Companies at pages 9-10; (d) Southwestern Bell at pages 10-6; (e) U S West at page 9; and (f) SNET at page 15.

simplification programs appear to be overstated. It is unclear if any of the options will substantially reduce costs, as it appears a large percentage result from maintaining the accounting and property records necessary to run a well-managed communications company. In any case, in States that continue to require the status quo for state ratemaking purposes, the savings will be non-existent. [7]

(2) Many of the twenty-one commentors cited in footnote 4 agree with NARUC that Option D presents LECs with both the ability and the incentive to manipulate depreciation rates.[8]

(3) The suggested "opportunity for others to comment" and "notification to the States" is meaningless as their would be no supporting data on which affected parties could base their review of proposed rates. In effect, the Commission would be reduced to rubber stamping LEC submissions.[9]

(4) It is also unclear if this option adequately addresses the

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[7] See, Comments of (a) States at pages 8-11 suggesting that substantial amounts of data collection and analysis will continue in any event for internal corporate purposes, to assure books and

legal requirements imposed by the Administrative Procedure Act, 5 U.S.C. Section 552 et seq., concerning a factual basis/record for agency action. Moreover, it appears that this option undercuts the policy implicit in 47 U.S.C. Sec. 220's requirement for consultation with states by removing any meaningful opportunity for state comments on the "LEC prescribed" depreciation rates.[10] Several commentors also suggest that the FCC would be unlawfully abdicating its responsibilities under the Communications Act to prescribe depreciation rates if it imposed this option.[11]

For the foregoing reasons, NARUC respectfully suggests that if the FCC determines to continue with any of the four options, the current record provides substantial and unrebutted support for only one option - Option A.

Cost of Removal and Salvage

The record supports further in-depth examination of the FCC's proposal to change the accounting treatment for Cost of Removal and Salvage to Current Period Accounting via a second phase of this proceeding or a separately docketed rulemaking.

As noted in its original comments, NARUC agrees the separate proceeding,[12] (ii) two are noncommittal,[13] (iii) one opposes the proposal only if it is mandatory,[14] and (iv) seven oppose the change.[15]

NARUC respectfully suggests that, even without further elaboration on the contentions of these various parties, the split among the positions listed, supra, demonstrates that the record supports further in depth examination of the proposed treatment of salvage and cost of removal in either a second phase of this proceeding or a separate docket.

Those opposing further investigation of the FCC's proposal

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12 See, the Comments of (a) GSA at pages 8-10; (b) States at pages 27-30; (c) CPUC at pages 10-1; (d) Virginia at page 3; (e) WUTC at page 2; (f) Oklahoma Corporation Commission at page 8, which supports the current period charges/credits approach as an acceptable alternative to its own proposal for a separate salvage rate that changes independently of the depreciation rate; (g) NARUC at pages 14-6 detailing the advantages of a current period accounting approach and suggesting an in-depth review is overdue; (h) Wisconsin at page 9, suggesting a separate docket be initiated because, although the FCC proposal will simplify the depreciation process, other procedures may be complicated; (i) NYSDPS at pages 7-9, detailing the salutary effects of the approach, but suggesting no change until a full examination of all accounting issues is completed, including whether the change is compatible with GAAP; (j) MoPSC at page 6; and, (k) Ameritech at page 11, suggesting that current accounting treatment for salvage and cost of removal be carefully examined on an account by account basis independent of the depreciation simplification.

13 See, Comments of (a) CoPUC at pages 27-8, suggesting that the elimination of net salvage will have a minimal impact on total depreciation expenses in Colorado and that the FCC proposal does not violate GAAP; and, (b) BellSouth at page 40, noting only that the present treatment of salvage is in accord with GAAP and will not be burdensome if the FCC adopts its revised option D.

14 See, Comments of the USTA at pages 21-2.

15 See, Comments of (a) Pacific Companies at pages 21-2, (b) CBT at pages 14-5; (c) GTE at pages 14-5; (d) SNET at pages 21-2; (e) Deloitte & Touche at page 4; (f) MiPSC at page 6; and (g) SD at 3.

make five overlapping arguments. Specifically, they suggest, inter alia, that (a) the FCC's proposal will not simplify the depreciation process, but will rather increase costs without any benefits, (Southern New England Telephone Comments at pages 21 - 22, (b) cash basis treatment of salvage and cost of removal may create earnings volatility, (Deloitte & Touche Comments at page 4), (c) the proposal conflicts with GAAP and the Commission's rules, (Pacific Bell and Nevada Bell Comments at pages 21 - 22), (d) the proposal would require a considerable effort to revise the accounting system and retrain employees, (Cincinnati Bell Telephone Comments at pages 14 - 15), and (e) excluding removal costs could significantly distort financial results and violate the intention of GAAP, (GTE Service Corporation Comments at pages 14 - 15).

Conformance with GAAP

The NPRM asks for comment on whether the change to current period accounting would be contrary to Generally Accepted Accounting Principles ("GAAP"). NARUC's initial comments agree that this question and others concerning, inter alia, possible tax consequences and the implications for price cap companies, need to be examined. There are also questions concerning treatment of past depreciation accruals for cost of removal and salvage, abnormal occurrences, and salvage on certain types of equipment. NARUC does not believe, however, that the instant docket frames these issues sufficiently to resolve the overall question of current period accounting. Accordingly, NARUC has already suggested that these and related issues should be examined in depth, perhaps in a second phase of this docket or even in a separately docketed proceeding.

As noted, supra, GTE Service Corporation and Cincinnati Bell Telephone contend, inter alia, that the FCC's proposal should be rejected as contrary to GAAP. Although NARUC believes the issue deserves further examination in the context of a review of related issues, it is clear that the current record does not support a conclusion that the FCC's proposal should be perfunctorily rejected as contrary to GAAP. Significantly, even Diloitte & Touche, a consulting firm dealing with industry on accounting issues which opposes the FCC's current period accounting proposal, suggests that cash basis treatment may be considered GAAP.[16]

Benefits of Simplification of the Process

Southern New England's suggestion that the FCC's proposal will not simplify the depreciation process, but will rather increase depreciation rates of the increasing negative bet salvage trend for certain plant categories, and (c) reduce depreciation reserve deficiencies where overall future net salvage is expected to be negative.

In light of the simplification that will clearly occur as a result of a shift to current period accounting, and the benefits detailed above, NARUC looks askance at Cincinnati's contentions that the FCC's proposal would require a considerable effort to revise the accounting system and retrain employees, particularly when it appears that at least a similar level of "revision" and "retraining" of the same employees will be required if the FCC inferences concerning the matching principles of GAAP and the FCC's current accounting proposal stands in stark contrast to the detailed discussion of the need for "flexibility" in setting depreciation rates that characterizes many of the LEC arguments supporting earlier NPRM option D.[18]

CONCLUSION

NARUC agrees that the current FCC depreciation prescription process is too complex and suggests that, of the four proposed options, the Basic Factors Range Option is the most appropriate. In addition, NARUC believes the current accounting treatment afforded cost of removal and salvage should be examined in depth via, e.g., a second phase of this docket.

Respectfully submitted,

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current accounting regime eliminates carrier flexibility concerning salvage/cost of removal estimates included as part of depreciation calculation. Moreover, as the GSA suggests in its comments on pages 8-10, for long lived plant accounts, the present procedure assesses charges for cost of removal that far exceeds the actual annual removal costs incurred; this results in over recovery which will continue indefinitely as long as current dollars are less valuable, per dollar, than embedded investment dollars, and as long as plant accounts continue to grow.

[18] See, generally, the Comments of Pacific Companies, suggesting that the FCC must tailor any option chosen to provide price cap carriers with greater flexibility in responding to

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